

AMENDED IN SENATE APRIL 21, 2009

AMENDED IN SENATE MARCH 23, 2009

SENATE BILL

No. 108

Introduced by Senator Walters

January 27, 2009

An act to amend Section ~~47612~~ of the ~~Education~~ 6528 of the Government Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 108, as amended, Walters. ~~Charter Schools: government tort claims.~~ *Charter schools.*

(1) Existing law provides that a charter school, including a charter school operated as or by a nonprofit public benefit corporation, may be considered a public agency, as defined, for the purpose of being eligible for membership in a joint powers agreement for risk-pooling.

This bill, in addition, would prohibit a joint powers authority for risk-pooling from refusing to admit to membership or provide coverage to a charter school, including a charter school operated as or by a nonprofit public benefit corporation, or a school district that operates a charter school, solely on the basis that the school under consideration is a charter school or the district under consideration operates a charter school. By limiting the discretion of joint powers authorities, this bill would impose a state-mandated local program.

~~Existing law, the California Tort Claims Act, governs the tort liability and immunity of, and claims and actions against, public entities and their officers and employees. A public entity, as defined, is not liable for an injury, except as otherwise provided by statute, whether the injury arises out of an act or omission of the public entity or a public employee or any other person.~~

~~The Charter Schools Act of 1992 specifies that a charter school is deemed to be a school district for purposes of statutory provisions regarding apportionments from the State School Fund, allowances for transportation, and state lottery funds and provisions of the California Constitution regarding the calculation of the minimum amount of funding for the support of school districts and community college districts.~~

~~This bill would specify that a charter school shall be deemed a political subdivision for purposes of the California Tort Claims Act and other specified statutory provisions regarding public agencies. By subjecting charter schools to the duties imposed on public agencies by these statutory provisions, this bill would impose a state-mandated local program.~~

~~The~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 *SECTION 1. Section 6528 of the Government Code is amended*
2 *to read:*

3 6528. (a) A charter school, including a charter school
4 organized pursuant to Section 47604 of the Education Code, may
5 be considered a public agency, as defined in Section 6500, for the
6 purpose of being eligible for membership in a joint powers
7 agreement for risk-pooling.

8 (b) A joint powers authority for risk-pooling shall not refuse to
9 admit to membership or provide coverage to a charter school,
10 including a charter school organized pursuant to Section 47604
11 of the Education Code, or a school district that operates a charter
12 school, solely on the basis that the school under consideration is
13 a charter school or the district under consideration operates a
14 charter school.

1 SECTION 1. ~~Section 47612 of the Education Code is amended~~
2 ~~to read:~~

3 ~~47612. (a) A charter school shall be deemed to be under the~~
4 ~~exclusive control of the officers of the public schools for purposes~~
5 ~~of Section 8 of Article IX of the California Constitution, with~~
6 ~~regard to the appropriation of public moneys to be apportioned to~~
7 ~~a charter school, including, but not limited to, appropriations made~~
8 ~~for the purposes of this chapter.~~

9 ~~(b) The average daily attendance in a charter school shall not~~
10 ~~be generated by a pupil who is not a California resident. To remain~~
11 ~~eligible for generating charter school apportionments, a pupil over~~
12 ~~19 years of age shall be continuously enrolled in public school and~~
13 ~~make satisfactory progress towards award of a high school diploma.~~

14 ~~(c) A charter school shall be deemed to be a “school district”~~
15 ~~for purposes of Article 1 (commencing with Section 14000) of~~
16 ~~Chapter 1 of Part 9 of Division 1 of Title 1, Section 41301, Section~~
17 ~~41302.5, Article 10 (commencing with Section 41850) of Chapter~~
18 ~~5 of Part 24 of Division 3, Section 47638, and Sections 8 and 8.5~~
19 ~~of Article XVI of the California Constitution.~~

20 ~~(d) A charter school shall be deemed a “political subdivision”~~
21 ~~for purposes of Division 3.6 (commencing with Section 810) of~~
22 ~~Title 1 of, Chapter 23 (commencing with Section 7530) of Division~~
23 ~~7 of Title 1 of, and Article 3 (commencing with Section 53050)~~
24 ~~of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government~~
25 ~~Code.~~

26 SEC. 2. If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.